

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:22-CR-448 HEA
)	
RUSSELL ALLEN PIRKEY,)	
)	
Defendant.)	

MOTION FOR DOWNWARD VARIANCE

Pursuant to the parties' plea agreement, Defendant Russell Allen Pirkey, through Assistant Federal Defender Kevin Gau, hereby gives notice he will be moving for a downward variance from the sentencing guidelines range applicable to his case and plead for a sentence of 216 months (18 years). Mr. Pirkey notes the United States Sentencing Commission guidelines applicable to his case is 360 months, and the statutory range of punishment is 15 to 30 years (Doc. 49, Presentence Investigation Report, disclosure copy ("PSR") ¶¶ 72, 73). Mr. Pirkey respectfully asks the Court to consider several factors under 18 U.S.C. § 3553(a) which support such a variance:

Mr. Pirkey had a very unstable childhood, as his father moved his family's home often when restaurant and hotel business deals ended badly (PSR ¶ 50). His mother has confirmed with Probation the home instability which affected Mr. Pirkey's upbringing. Mr. Pirkey can recall instances of waking in the middle of the night to move to the next city, and times when his family did not have enough food to eat. And the family moves were not small ones; although Mr. Pirkey has spent most of his adult life within the

Eastern District of Missouri, he was born in Portland Oregon, at some point moved to Bennington Vermont, thence to Daytona Beach, Florida, thence to Charlotte North Carolina (PSR ¶ 53). Such home instability and his father's hopscotching to different corners of the country prevented Mr. Pirkey from making long-lasting friendships or learning ways to seek help from a supportive community.

As a result of such an upbringing, Mr. Pirkey admittedly had a time trying to wrestle with anger and temper issues (PSR ¶ 56). He attempted some mental health treatment in his twenties, but his main refuge has been daily marijuana use (PSR ¶58). He welcomes a chance for placement in a Residential Drug Abuse Program while incarcerated.

Mr. Pirkey has not completed his high school education but has been taking general educational development classes while at Crawford County, Missouri Jail in the hopes he can get his GED soon after placement within the Bureau of Prisons (PSR ¶ 61). Undersigned counsel is also unaware of that Mr. Pirkey has had conduct violations while housed within the Crawford County jail.

Finally, Mr. Pirkey has expressed to Counsel he understands the seriousness of these charges, and of the harm he has done to R.M. He is deeply ashamed, and prays daily that R.M. will be able to heal and move on. Counsel does ask the Court to consider that Mr. Pirkey has a criminal history score of zero, and that he has never had a custodial sentence before (PSR ¶¶ 42, 43, and 45).

WHEREFORE, for the foregoing reasons and as may be further argued at sentencing, Mr. Pirkey moves for a downward variance and respectfully pleads for a

sentence of 216 months (18 years) of imprisonment. Mr. Pirkey further requests that the sentence be run concurrently with pending State of Missouri case nos. 23LI-CR00078-01 and 23LI-CR00082-01, prosecuted by the Linn County, Missouri Prosecutor's Office, as these cases relate to the conduct in this federal case.

Respectfully submitted,

/s/ Kevin B. Gau

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CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2025, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon Nathan Chapman, Assistant United States Attorney.

/s/ Kevin B. Gau

KEVIN B. GAU
Assistant Federal Public Defender